IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1428 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAVINDRABHAI CHHOTABHAI PATEL - Applicant(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR MTM HAKIM for Applicant(s) : 1,
MR MR MENGDE, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2 – 3.
MR TN VYAS for Respondent (s) : 4.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 07/09/2007

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India, the petitioner – original complainant has made a grievance with regard to

the inaction on the part of the concerned Investigating Agency / Investigating Officer in respect to FIR being I CR No.127 of 2006 dated 22.4.2006 and FIR being I CR No.156 of 2007 dated 5.5.2007. It is also required to be noted that one private complaint was filed by the petitioner under section 190 of the Cr.P.C., which has been registered as M Case No.514 of 2005 which is pending before the learned JMFC, Court No.3, Vadodara.

2. Shri Hakim, learned advocate appearing for the petitioner has submitted that inspite of submissions to the concerned I.O. to submit appropriate report before the Court in M Case No.514 of 2005 till date no such report has been submitted and therefore, the petitioner was constrained to submit an appropriate application on 15.3.2007 making a grievance before the learned JMFC that no report has been submitted by the Investigating Officer.

3. Shri M.R.Mengde, learned APP, under the instructions from the concerned I.O. has submitted that as such, by outward No.4146 of 2006 dated 25.11.2006, the report is already sent to the concerned learned JMFC, Court No.3, Vadodara. Shri M.R.Mengde, learned APP has submitted that it might have been misplaced somewhere, however, he has submitted that the concerned I.O. will report to the learned JMFC, Court No.3, Vadodara within a period of one week from today pointing out to the learned JMFC, Court No.3, Vadodara with regard to the submission of the report vide outward No.4146 of 2006 dated 25.11.2006 and if the said report is not traceable, the concerned I.O. will submit the same in person before the learned JMFC within a period of one week from today with a copy to the complainant. Concerned I.O. is directed to act accordingly. As and when such a report is submitted, it will be open for the petitioner – original complainant to submit objections as per the provisions of the Cr.P.C. and as and when such a report is submitted and

objections are raised, the learned JMFC, Court No.3, Vadodara is directed to consider the same in accordance with law and on its own merits and to pass an appropriate order within a period of 3 months from today.

4. So far as the complaint being I CR No.127 of 2006 is concerned, Shri Mengde, learned APP under the instructions from the concerned I.O. has submitted that after the investigation, the Investigating Officer has submitted C summary report before the learned JMFC, Court No.3, Vadodara on 31.7.2007 vide outward No.4169 of 2007 and the petitioner will be given copy of the said report within a period of one week from today. It will be open for the petitioner to submit his objections against the said C summary report before the learned JMFC, Court No.3, Vadodara, as stated above, and the learned JMFC, is directed to take an appropriate decision on the said report after giving an opportunity to all the concerned as required under the provisions of the Cr.P.C. within a period of 3

months from the date of receipt of this order.

5. So far as complaint / FIR being I CR No.156 of 2007 filed by the concerned Mamlatdar is concerned, Shri Mengde, learned APP under the instruction from the concerned I.O. has submitted that after the investigation, Investigating Officer has also proposed to submit C summary report and the same was sent to the Assistant Commissioner of Police on 1.9.2007 and thereafter it has been further forwarded to the Deputy Commissioner of Police on 6.9.2007 and the same will be sent to the Commissioner of Police, Vadodara for his opinion and on receipt of the appropriate opinion from the Commissioner of Police, Vadodara, if the Commissioner of Police agrees then the C summary report will be submitted before the concerned learned JMFC for its consideration and if, ultimately, the Commissioner of Police disagrees with the said report and further investigation is required, then appropriate further proceedings will be initiated as per the directions / opinion of the

Commissioner of Police. Commissioner of Police is directed to take appropriate decision and/or consider the said report and sent his opinion to the concerned I.O. within a period of two weeks from today. All the concerned are directed to act as per the directions.

6. With these, present petition is disposed of at this stage. Notice discharged. Direct Service is permitted.

(M.R.Shah, J.)

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